

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

ERIC DANTE PITT, for himself
And on behalf of all similarly situated
individuals,

Plaintiff,

v.

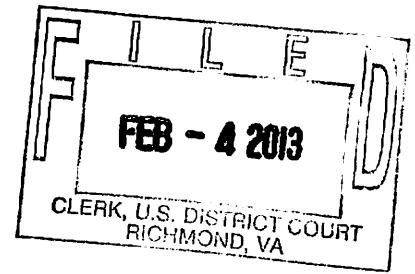
KMART CORPORATION,
A wholly owned subsidiary of Sears
Holdings Corporation,

and

SEARS HOLDINGS CORPORATION,

Defendants.

Civil Action No. 3:11-cv-697



**ORDER GOVERNING USE AND DISCLOSURE OF CLASS MEMBER
INFORMATION**

WHEREAS Plaintiff has filed a Motion for Preliminary Approval and proposed Settlement Agreement with the Court;

WHEREAS Section 4.2.1 of the proposed Settlement Agreement requires the Settlement Administrator to cause Mail Notice to be sent to each proposed Settlement Class Member within thirty (30) days following Preliminary Approval; and

WHEREAS the proposed Settlement Agreement requires the Settlement Administrator to send additional notices to the Settlement Class Members and to carry out other functions that

may require communication with the Settlement Class Members in order to effectuate the Settlement.

IT IS HEREBY ORDERED THAT:

1. Defendants shall provide the Settlement Administrator with the class list and consumer information described in Subsections 4.1.1 – 4.1.2 of the proposed Settlement Agreement (the “Class List and Class Member Information”).
2. The Settlement Administrator and its employees and agents are authorized to use the Class List and Class Member Information for the purposes set forth in this Order but shall protect this information as confidential and shall not disclose such information to any person or entity except as authorized by Court order.
3. The Class List and Class Member Information shall not be used for any purpose other than for effectuating or enforcing the Settlement Agreement.
4. The Settlement Administrator is authorized to share the Class List and Class Member Information with the Settlement Class Counsel and with counsel for Defendants and the other Released Parties for the purposes set forth in this Order.
5. For the purpose of certifying that a consumer who has filed or has threatened to file subsequent litigation against any of the Released Parties appears on the class list described in the Settlement Agreement in *Pitt v. Kmart Corporation, et al.*, Civil Action No. 3:11-cv-697 (E.D. Va.), the Settlement Administrator shall retain the Class List and Class Member Information for five years after the final Payment Notice is mailed.
6. Within fourteen days after the final Payment Notice is mailed, any person other than Settlement Class Counsel, with whom the Settlement Administrator has shared information

under this Order shall return that information to Defendants' Counsel or certify in writing that it has been destroyed.

7. Within one year after the final Payment Notice is mailed, Settlement Class Counsel with whom the Settlement Administrator has shared information under this Order shall return that information to Defendants' Counsel or certify in writing that it has been destroyed.

8. The Settlement Administrator shall be permitted to obtain and use an appropriate and industry recognized "skip-tracing" database in order to carry out its duties under the Settlement Agreement. Pursuant to 15 U.S.C. § 1681b(a)(1), the Court finds that there is a permissible purpose for the use of information that may be otherwise governed by the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. Such information shall be retained as "Confidential" under the governance of the Court's Stipulated Protective Order entered July 9, 2012 (Docket # 28).

IT IS SO ORDERED.

Dated: 2/4/13

/s/ *JAG*
John A. Gibney, Jr.
United States District Judge